

1-1 By: Hancock, Eltife, Menéndez S.B. No. 1654  
1-2 (In the Senate - Filed March 13, 2015; March 23, 2015, read  
1-3 first time and referred to Committee on Business and Commerce;  
1-4 April 9, 2015, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 9, 2015,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1654 By: Creighton

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to the standard valuation for life insurance, accident and  
1-22 health insurance, and annuities and the nonforfeiture requirements  
1-23 of certain life insurance policies; amending provisions that may be  
1-24 subject to a criminal penalty.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 425.052, Insurance Code, is amended by  
1-27 amending Subsection (a) and adding Subsection (c) to read as  
1-28 follows:

1-29 (a) In this subchapter:

1-30 (1) "Accident and health insurance" means contracts  
1-31 that incorporate morbidity risk and provide protection against  
1-32 economic loss resulting from accident, sickness, or medical  
1-33 conditions and as may be specified in the valuation manual.

1-34 (2) "Appointed actuary" means a qualified actuary who  
1-35 is appointed in accordance with the valuation manual to prepare the  
1-36 actuarial opinion required by Section 425.0545.

1-37 (3) "Company" means an entity that:

1-38 (A) has written, issued, or reinsured life  
1-39 insurance contracts, accident and health insurance contracts, or  
1-40 deposit-type contracts in this state and has at least one such  
1-41 policy in force or on claim; or

1-42 (B) has written, issued, or reinsured life  
1-43 insurance contracts, accident and health insurance contracts, or  
1-44 deposit-type contracts in any state and is required to hold a  
1-45 certificate of authority to write life insurance, accident and  
1-46 health insurance, or deposit-type contracts in this state.

1-47 (4) "Deposit-type contract" means a contract that does  
1-48 not incorporate mortality or morbidity risk and as may be specified  
1-49 in the valuation manual.

1-50 (5) "Life insurance" means contracts that incorporate  
1-51 mortality risk, including annuity and pure endowment contracts, and  
1-52 as may be specified in the valuation manual.

1-53 (6) "Policyholder behavior" means any action a  
1-54 policyholder, a contract holder, or any other person with the right  
1-55 to elect options, such as a certificate holder, may take under a  
1-56 policy or contract subject to this subchapter, including lapse,  
1-57 withdrawal, transfer, deposit, premium payment, loan,  
1-58 annuitization, or benefit elections prescribed by the policy or  
1-59 contract but excluding events of mortality or morbidity that result  
1-60 in benefits prescribed in their essential aspects by the terms of

2-1 the policy or contract.

2-2 (7) "Principle-based valuation" means the valuation  
 2-3 described by Section 425.074.

2-4 (8) "Qualified actuary" means an individual who is  
 2-5 qualified to sign the applicable statement of actuarial opinion in  
 2-6 accordance with the American Academy of Actuaries' qualification  
 2-7 standards for actuaries signing such statements and who meets the  
 2-8 requirements specified in the valuation manual.

2-9 (9) "Reserves" [~~,~~ "reserves"] means reserve  
 2-10 liabilities.

2-11 (10) "Tail risk" means a risk that occurs either where  
 2-12 the frequency of low probability events is higher than expected  
 2-13 under a normal probability distribution or where there are observed  
 2-14 events of very significant size or magnitude.

2-15 (11) "Valuation manual" means the manual of valuation  
 2-16 instructions adopted by the commissioner by rule.

2-17 (c) The definitions under Subsection (a) of "accident and  
 2-18 health insurance," "appointed actuary," "company," "deposit-type  
 2-19 contract," "life insurance," "policyholder behavior,"  
 2-20 "principle-based valuation," "qualified actuary," and "tail risk"  
 2-21 apply only on and after the operative date of the valuation manual.

2-22 SECTION 2. The heading to Section 425.053, Insurance Code,  
 2-23 is amended to read as follows:

2-24 Sec. 425.053. ANNUAL VALUATION OF RESERVES FOR POLICIES AND  
 2-25 CONTRACTS ISSUED BEFORE OPERATIVE DATE OF VALUATION MANUAL.

2-26 SECTION 3. Section 425.053, Insurance Code, is amended by  
 2-27 amending Subsections (a) and (c) and adding Subsections (d) and (e)  
 2-28 to read as follows:

2-29 (a) The department shall annually value or cause to be  
 2-30 [have] valued the reserves for all outstanding life insurance  
 2-31 policies and annuity and pure endowment contracts of each life  
 2-32 insurance company engaged in business in this state issued before  
 2-33 the operative date of the valuation manual. [The department may  
 2-34 certify the amount of those reserves, specifying the mortality  
 2-35 table or tables, rate or rates of interest, and methods, including  
 2-36 the net level premium method or another method, used in computing  
 2-37 those reserves.]

2-38 (c) Instead of valuing the reserves as required by  
 2-39 Subsection (a) for a foreign or alien company, the department may  
 2-40 accept any valuation made by or for the insurance supervisory  
 2-41 official of another state or jurisdiction if[+]

2-42 [~~(1)~~] the valuation complies with the minimum standard  
 2-43 provided by this subchapter[~~, and~~

2-44 [~~(2)~~ the official accepts as sufficient and valid for  
 2-45 all legal purposes a certificate of valuation made by the  
 2-46 department that states the valuation was made in a specified manner  
 2-47 according to which the aggregate reserves would be at least as large  
 2-48 as they would be if computed in the manner prescribed by the law of  
 2-49 that state or jurisdiction].

2-50 (d) Except as otherwise provided by this subchapter,  
 2-51 policies and contracts issued on or after the operative date of the  
 2-52 valuation manual are governed by Section 425.0535.

2-53 (e) The minimum standards for the valuation of policies and  
 2-54 contracts issued before the operative date of the valuation manual  
 2-55 are as provided by Sections 425.058 through 425.071 and Section  
 2-56 425.072(b), as applicable. Sections 425.072(a), 425.073, and  
 2-57 425.074 do not apply to a policy or contract described by this  
 2-58 subsection.

2-59 SECTION 4. Subchapter B, Chapter 425, Insurance Code, is  
 2-60 amended by adding Section 425.0535 to read as follows:

2-61 Sec. 425.0535. ANNUAL VALUATION OF RESERVES FOR POLICIES  
 2-62 AND CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF VALUATION  
 2-63 MANUAL. (a) The commissioner shall annually value, or cause to be  
 2-64 valued, the reserves for all outstanding life insurance contracts,  
 2-65 annuity and pure endowment contracts, accident and health  
 2-66 contracts, and deposit-type contracts of each company issued on or  
 2-67 after the operative date of the valuation manual.

2-68 (b) In lieu of the valuation of the reserves required of a  
 2-69 foreign or alien company, the commissioner may accept a valuation

3-1 made, or caused to be made, by the insurance supervisory official of  
3-2 another state if the valuation complies with the minimum standard  
3-3 provided by this subchapter.

3-4 (c) Sections 425.072(a), 425.073, and 425.074 apply to all  
3-5 policies and contracts issued on or after the operative date of the  
3-6 valuation manual.

3-7 SECTION 5. The heading to Section 425.054, Insurance Code,  
3-8 is amended to read as follows:

3-9 Sec. 425.054. ACTUARIAL OPINION OF RESERVES ISSUED BEFORE  
3-10 OPERATIVE DATE OF VALUATION MANUAL [REQUIRED].

3-11 SECTION 6. Section 425.054, Insurance Code, is amended by  
3-12 amending Subsection (a) and adding Subsections (a-1), (j), (k),  
3-13 (l), (m), (n), (o), (p), and (q) to read as follows:

3-14 (a) This section applies only to an actuarial opinion of  
3-15 reserves issued before the operative date of the valuation manual.

3-16 (a-1) For purposes of this section, "qualified actuary"  
3-17 means:

3-18 (1) a qualified actuary, as that term is defined by  
3-19 Section 802.002; or

3-20 (2) a person who, before September 1, 1993, satisfied  
3-21 the requirements of the former State Board of Insurance to submit an  
3-22 opinion under former Section 2A(a)(1), Article 3.28.

3-23 (j) Except as provided by Subsections (n), (o), and (p), any  
3-24 document or other information in the possession or control of the  
3-25 department that is a memorandum in support of the opinion or other  
3-26 material provided by the company to the commissioner in connection  
3-27 with a memorandum is confidential and privileged and not subject  
3-28 to:

3-29 (1) disclosure under Chapter 552, Government Code;

3-30 (2) subpoena;

3-31 (3) discovery; or

3-32 (4) admissibility as evidence in a private civil  
3-33 action.

3-34 (k) The commissioner or any person who receives a document  
3-35 or other information described by Subsection (j) while acting under  
3-36 the authority of the commissioner may not testify and may not be  
3-37 compelled to testify in a private civil action concerning the  
3-38 document or other information.

3-39 (l) The commissioner may:

3-40 (1) share documents or other information, including  
3-41 the confidential and privileged documents or information described  
3-42 by Subsection (j), with another state, federal, or international  
3-43 regulatory agency, with the National Association of Insurance  
3-44 Commissioners and its affiliates and subsidiaries, and with state,  
3-45 federal, and international law enforcement authorities, provided  
3-46 that the recipient agrees to maintain the confidentiality of the  
3-47 document or information; and

3-48 (2) receive documents or other information, including  
3-49 confidential and privileged documents or information, from the  
3-50 National Association of Insurance Commissioners and its affiliates  
3-51 and subsidiaries, and from regulatory and law enforcement officials  
3-52 of other foreign or domestic jurisdictions, provided that the  
3-53 commissioner shall maintain as confidential or privileged any  
3-54 document or information received with notice or understanding that  
3-55 it is confidential or privileged under the laws of the jurisdiction  
3-56 that is the source of the document or information.

3-57 (m) Disclosing information or providing a document to the  
3-58 commissioner under this section, or sharing information as  
3-59 authorized under this section, does not result in a waiver of any  
3-60 applicable privilege or claim of confidentiality that may apply to  
3-61 the document or information.

3-62 (n) A memorandum in support of the opinion, and any other  
3-63 material provided by the company to the commissioner in connection  
3-64 with the memorandum, may be subject to subpoena for the purpose of  
3-65 defending an action seeking damages from the actuary submitting the  
3-66 memorandum by reason of an action required by this section or rules  
3-67 adopted under this section.

3-68 (o) The memorandum or other material provided by the company  
3-69 to the commissioner in connection with the memorandum may otherwise

4-1 be released by the commissioner with the written consent of the  
 4-2 company, or to the Actuarial Board for Counseling and Discipline or  
 4-3 its successor on receipt of a request stating that the memorandum or  
 4-4 other material is required for the purpose of professional  
 4-5 disciplinary proceedings and setting forth procedures satisfactory  
 4-6 to the commissioner for preserving the confidentiality and  
 4-7 privileged status of the memorandum or other material.

4-8 (p) The memorandum ceases to be confidential and privileged  
 4-9 if:

4-10 (1) any portion of the memorandum is cited by the  
 4-11 company in its marketing;

4-12 (2) the memorandum is cited by the company before a  
 4-13 government agency other than a state insurance department; or

4-14 (3) the memorandum is released by the company to the  
 4-15 news media.

4-16 (q) This section does not prohibit the commissioner from  
 4-17 using information acquired under this section in the furtherance of  
 4-18 a legal or regulatory action relating to the administration of this  
 4-19 code.

4-20 SECTION 7. Subchapter B, Chapter 425, Insurance Code, is  
 4-21 amended by adding Section 425.0545 to read as follows:

4-22 Sec. 425.0545. ACTUARIAL OPINION OF RESERVES AFTER  
 4-23 OPERATIVE DATE OF VALUATION MANUAL. (a) A company that has  
 4-24 outstanding life insurance contracts, accident and health  
 4-25 insurance contracts, or deposit-type contracts in this state and is  
 4-26 subject to regulation by the department shall annually submit the  
 4-27 opinion of the appointed actuary as to whether the reserves and  
 4-28 related actuarial items held in support of the policies and  
 4-29 contracts are computed appropriately, are based on assumptions that  
 4-30 satisfy contractual provisions, are consistent with prior reported  
 4-31 amounts, and are in compliance with applicable laws of this state.  
 4-32 An opinion under this section must comply with provisions of the  
 4-33 valuation manual, including in regard to any items necessary to its  
 4-34 scope.

4-35 (b) Unless exempted by the valuation manual, a company  
 4-36 described by Subsection (a) shall include with the opinion required  
 4-37 by that subsection an opinion of the same appointed actuary  
 4-38 concerning whether the reserves and related actuarial items held in  
 4-39 support of the policies and contracts specified in the valuation  
 4-40 manual, when considered in light of the assets held by the company  
 4-41 with respect to the reserves and related actuarial items, including  
 4-42 investment earnings on the assets and considerations anticipated to  
 4-43 be received and retained under the policies and contracts, make  
 4-44 adequate provision for the company's obligations under the policies  
 4-45 and contracts, including benefits under and expenses associated  
 4-46 with the policies and contracts.

4-47 (c) Each opinion required by this section must:

4-48 (1) be in the form and contain the substance that is  
 4-49 specified by the valuation manual and is acceptable to the  
 4-50 commissioner;

4-51 (2) be submitted with the annual statement reflecting  
 4-52 the valuation of reserves for each year ending on or after the  
 4-53 operative date of the valuation manual;

4-54 (3) apply to all policies and contracts subject to  
 4-55 this section, plus other actuarial liabilities specified by the  
 4-56 valuation manual; and

4-57 (4) be based on standards adopted from time to time by  
 4-58 the Actuarial Standards Board or its successor, and on any  
 4-59 additional standards prescribed by the valuation manual.

4-60 (d) In the case of an opinion required to be submitted by a  
 4-61 foreign or alien company, the commissioner may accept the opinion  
 4-62 filed by the company with the insurance supervisory official of  
 4-63 another state if the commissioner determines that the opinion  
 4-64 reasonably meets the requirements applicable to a company domiciled  
 4-65 in this state.

4-66 SECTION 8. Section 425.055(a), Insurance Code, is amended  
 4-67 to read as follows:

4-68 (a) A memorandum [~~that, in form and substance, complies with~~  
 4-69 ~~the commissioner's rules~~] shall be prepared to support each

5-1 actuarial opinion required by Section 425.054 or 425.0545. The  
5-2 form and substance of each supporting memorandum must comply with  
5-3 the commissioner's rules for memorandums subject to Section  
5-4 425.054, or the valuation manual for memorandums subject to Section  
5-5 425.0545.

5-6 SECTION 9. Section 425.056(a), Insurance Code, is amended  
5-7 to read as follows:

5-8 (a) Except in cases of fraud or wilful misconduct or as  
5-9 provided by Subsection (b), a person who certifies an opinion under  
5-10 Section 425.054 or 425.0545 is not liable for damages to a person,  
5-11 other than the life insurance company covered by the opinion, for an  
5-12 act, error, omission, decision, or other conduct with respect to  
5-13 the person's opinion.

5-14 SECTION 10. Section 425.057, Insurance Code, is amended to  
5-15 read as follows:

5-16 Sec. 425.057. DISCIPLINARY ACTION: COMPANY OR PERSON  
5-17 CERTIFYING OPINION. A company or person that certifies an opinion  
5-18 under Section 425.054 or 425.0545 and that violates Section  
5-19 425.054, 425.0545, or 425.055 or rules adopted under those sections  
5-20 is subject to disciplinary action under Chapter 82.

5-21 SECTION 11. The heading to Section 425.058, Insurance Code,  
5-22 is amended to read as follows:

5-23 Sec. 425.058. COMPUTATION [VALUATION] OF MINIMUM STANDARD  
5-24 [POLICY OR CONTRACT]: GENERAL RULE.

5-25 SECTION 12. The heading to Section 425.059, Insurance Code,  
5-26 is amended to read as follows:

5-27 Sec. 425.059. COMPUTATION [VALUATION] OF MINIMUM STANDARD  
5-28 FOR CERTAIN ANNUITIES AND PURE ENDOWMENT CONTRACTS.

5-29 SECTION 13. The heading to Section 425.064, Insurance Code,  
5-30 is amended to read as follows:

5-31 Sec. 425.064. COMMISSIONERS RESERVE VALUATION METHOD FOR  
5-32 LIFE INSURANCE AND ENDOWMENT BENEFITS.

5-33 SECTION 14. The heading to Section 425.065, Insurance Code,  
5-34 is amended to read as follows:

5-35 Sec. 425.065. COMMISSIONERS ANNUITY RESERVE VALUATION  
5-36 METHOD FOR ANNUITY AND PURE ENDOWMENT BENEFITS.

5-37 SECTION 15. Subchapter B, Chapter 425, Insurance Code, is  
5-38 amended by adding Sections 425.072, 425.073, 425.074, 425.075,  
5-39 425.076, and 425.077 to read as follows:

5-40 Sec. 425.072. MINIMUM STANDARD FOR ACCIDENT AND HEALTH  
5-41 INSURANCE CONTRACTS. (a) The standard prescribed by the valuation  
5-42 manual for accident and health insurance contracts issued on or  
5-43 after the operative date of the valuation manual is the minimum  
5-44 standard of valuation required under Section 425.0535.

5-45 (b) For disability, accident and sickness, and accident and  
5-46 health insurance contracts issued before the operative date of the  
5-47 valuation manual, the minimum standard of valuation is the standard  
5-48 in existence before the operative date of the valuation manual in  
5-49 addition to any requirements established by the commissioner and  
5-50 adopted by rule.

5-51 Sec. 425.073. VALUATION MANUAL FOR POLICIES ISSUED ON OR  
5-52 AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL. (a) Except as  
5-53 otherwise provided by this section, for policies issued on or after  
5-54 the operative date of the valuation manual, the standard prescribed  
5-55 by the valuation manual is the minimum standard of valuation  
5-56 required under Section 425.0535.

5-57 (b) The commissioner by rule shall adopt a valuation manual  
5-58 and determine the operative date of the valuation manual. A  
5-59 valuation manual adopted by the commissioner under this section  
5-60 must be substantially similar to the valuation manual approved by  
5-61 the National Association of Insurance Commissioners. The operative  
5-62 date must be January 1 of the first calendar year immediately  
5-63 following a year in which, on or before July 1, the commissioner  
5-64 determines that:

5-65 (1) the valuation manual has been adopted by the  
5-66 National Association of Insurance Commissioners by an affirmative  
5-67 vote of at least 42 members, or three-fourths of the members voting,  
5-68 whichever is greater;

5-69 (2) the National Association of Insurance

6-1 Commissioners Standard Model Valuation Law, as amended by the  
6-2 National Association of Insurance Commissioners in 2009, or  
6-3 legislation including substantially similar terms and provisions,  
6-4 has been enacted by states representing greater than 75 percent of  
6-5 the direct premiums written as reported in the following annual  
6-6 statements submitted for 2008:

6-7 (A) life insurance and accident and health annual  
6-8 statements;

6-9 (B) health annual statements; or

6-10 (C) fraternal annual statements; and

6-11 (3) the National Association of Insurance  
6-12 Commissioners Standard Model Valuation Law, as amended by the  
6-13 National Association of Insurance Commissioners in 2009, or  
6-14 legislation including substantially similar terms and provisions,  
6-15 has been enacted by at least 42 of the following 55 jurisdictions:

6-16 (A) the 50 United States;

6-17 (B) American Samoa;

6-18 (C) the United States Virgin Islands;

6-19 (D) the District of Columbia;

6-20 (E) Guam; and

6-21 (F) Puerto Rico.

6-22 (c) After a valuation manual has been adopted by the  
6-23 commissioner by rule, any changes to the valuation manual must be  
6-24 adopted by rule and must be substantially similar to changes  
6-25 adopted by the National Association of Insurance Commissioners.  
6-26 Unless a change in the valuation specifies a later effective date,  
6-27 the effective date for changes to the valuation manual may not be  
6-28 earlier than January 1 of the year immediately following the date on  
6-29 which the commissioner determines that the changes to the valuation  
6-30 manual have been adopted by the National Association of Insurance  
6-31 Commissioners by an affirmative vote representing:

6-32 (1) at least three-fourths of the members of the  
6-33 National Association of Insurance Commissioners voting, but not  
6-34 less than a majority of the total membership; and

6-35 (2) members of the National Association of Insurance  
6-36 Commissioners representing jurisdictions totaling greater than 75  
6-37 percent of the direct premiums written as reported in the most  
6-38 recently available annual statements as provided by Subsections  
6-39 (b)(2)(A)-(C).

6-40 (d) The valuation manual must specify:

6-41 (1) the minimum valuation standards for and  
6-42 definitions of the policies or contracts subject to Section  
6-43 425.0535, including:

6-44 (A) the commissioner's reserve valuation method  
6-45 for life insurance contracts subject to Section 425.0535;

6-46 (B) the commissioner's annuity reserve valuation  
6-47 method for annuity contracts subject to Section 425.0535; and

6-48 (C) the minimum reserves for all other policies  
6-49 or contracts subject to Section 425.0535;

6-50 (2) the policies or contracts that are subject to the  
6-51 requirements of a principle-based valuation under Section 425.074  
6-52 and the minimum valuation standards consistent with those  
6-53 requirements, including:

6-54 (A) the requirements for the format of reports to  
6-55 the commissioner under Section 425.074(b)(3), which must include  
6-56 the information necessary to determine if a valuation is  
6-57 appropriate and in compliance with this subchapter;

6-58 (B) the assumptions prescribed for risks over  
6-59 which the company does not have significant control or influence;  
6-60 and

6-61 (C) the procedures for corporate governance and  
6-62 oversight of the actuarial function, and a process for appropriate  
6-63 waiver or modification of the procedures;

6-64 (3) the policies that are not subject to a  
6-65 principle-based valuation under Section 425.074;

6-66 (4) the data and form of data required under Section  
6-67 425.075, to whom the data must be submitted, and other desired  
6-68 requirements, including requirements concerning data analyses and  
6-69 reporting of analyses;

7-1 (5) other requirements, including requirements  
 7-2 relating to reserve methods, models for measuring risk, generation  
 7-3 of economic scenarios, assumptions, margins, use of company  
 7-4 experience, disclosure, certification, reports, actuarial opinions  
 7-5 and memorandums, transition rules, and internal controls; and

7-6 (6) an exemption that allows certain small companies  
 7-7 to value reserves based on an exception from certain requirements  
 7-8 of this section and Section 425.074; however, the premium  
 7-9 thresholds for determining whether the exemption applies shall be  
 7-10 as follows:

7-11 (A) less than \$300 million of ordinary life  
 7-12 premium; and

7-13 (B) less than \$600 million of combined ordinary  
 7-14 life premiums for a group of life insurers if the company is a  
 7-15 member of that group.

7-16 (e) For purposes of Subsections (d)(6)(A) and (B), an  
 7-17 ordinary life premium is measured as a direct premium plus  
 7-18 reinsurance assumed from an unaffiliated company, as reported in  
 7-19 the prior calendar year statement.

7-20 (f) With respect to policies that are not subject to a  
 7-21 principle-based valuation under Section 425.074 as described by  
 7-22 Subsection (d)(3), the minimum valuation standard specified in the  
 7-23 valuation manual must:

7-24 (1) be consistent with the minimum valuation standard  
 7-25 before the operative date of the valuation manual; or

7-26 (2) develop reserves that quantify the benefits and  
 7-27 guarantees, and the funding, associated with the contracts and  
 7-28 their risks at a level of conservatism that reflects conditions  
 7-29 that include unfavorable events that have a reasonable probability  
 7-30 of occurring.

7-31 (g) In the absence of a specific valuation requirement or if  
 7-32 a specific valuation requirement in the valuation manual does not  
 7-33 in the commissioner's opinion comply with this subchapter, the  
 7-34 company shall, with respect to the requirement, comply with minimum  
 7-35 valuation standards prescribed by the commissioner by rule.

7-36 (h) The commissioner may employ or contract with a qualified  
 7-37 actuary, at the expense of the company, to perform an actuarial  
 7-38 examination of the company and provide an opinion concerning the  
 7-39 appropriateness of any reserve assumption or method used by the  
 7-40 company, or to review and provide an opinion on a company's  
 7-41 compliance with any requirement of this subchapter. The  
 7-42 commissioner may rely on the opinion, regarding provisions  
 7-43 contained within this subchapter, of a qualified actuary engaged by  
 7-44 the insurance supervisory official of another state.

7-45 (i) The commissioner may require a company to change an  
 7-46 assumption or method as necessary in the commissioner's opinion to  
 7-47 comply with a requirement of the valuation manual or this  
 7-48 subchapter.

7-49 (j) The commissioner may take other disciplinary action as  
 7-50 permitted under Chapter 82.

7-51 Sec. 425.074. REQUIREMENTS OF A PRINCIPLE-BASED VALUATION.

7-52 (a) A company shall establish reserves using a principle-based  
 7-53 valuation that meets the conditions for policies or contracts  
 7-54 provided by the valuation manual. At a minimum, the valuation  
 7-55 shall:

7-56 (1) quantify the benefits and guarantees, and the  
 7-57 funding, associated with the contracts and their risks at a level of  
 7-58 conservatism that reflects conditions that include unfavorable  
 7-59 events that have a reasonable probability of occurring during the  
 7-60 terms of the contracts;

7-61 (2) with respect to policies and contracts with  
 7-62 significant tail risk, reflect conditions appropriately adverse to  
 7-63 quantify the tail risk;

7-64 (3) incorporate assumptions, risk analysis methods,  
 7-65 and financial models and management techniques that are consistent  
 7-66 with those used in the company's overall risk assessment process,  
 7-67 while recognizing potential differences in financial reporting  
 7-68 structures and any prescribed assumptions or methods;

7-69 (4) incorporate assumptions:

8-1 (A) prescribed by the valuation manual; or  
8-2 (B) established:  
8-3 (i) using the company's available  
8-4 experience, to the extent that data is relevant and statistically  
8-5 credible; or  
8-6 (ii) to the extent that the company data is  
8-7 not available, relevant, or statistically credible, using other  
8-8 relevant, statistically credible experience; and  
8-9 (5) provide margins for uncertainty, including  
8-10 adverse deviation and estimation error, such that the greater the  
8-11 uncertainty the larger the margin and resulting reserve.  
8-12 (b) A company using a principle-based valuation for one or  
8-13 more policies or contracts subject to this section and as specified  
8-14 by the valuation manual shall:  
8-15 (1) establish procedures for corporate governance and  
8-16 oversight of the actuarial valuation function consistent with  
8-17 procedures specified by the valuation manual;  
8-18 (2) provide to the commissioner and the company's  
8-19 board of directors an annual certification of the effectiveness of  
8-20 the internal controls with respect to the principle-based  
8-21 valuation; and  
8-22 (3) develop, and file with the commissioner on  
8-23 request, a principle-based valuation report that complies with  
8-24 standards prescribed in the valuation manual.  
8-25 (c) A company's internal controls with respect to the  
8-26 principle-based valuation must be designed to ensure that all  
8-27 material risks inherent in the liabilities and associated assets  
8-28 subject to the valuation are included in the valuation, and that  
8-29 valuations are made in accordance with the valuation manual. The  
8-30 certification described by Subsection (b)(2) must be based on the  
8-31 controls in place as of the end of the preceding calendar year.  
8-32 (d) A principle-based valuation may include a prescribed  
8-33 formulaic reserve component.  
8-34 Sec. 425.075. EXPERIENCE REPORTING FOR POLICIES IN FORCE ON  
8-35 OR AFTER OPERATIVE DATE OF VALUATION MANUAL. A company shall submit  
8-36 mortality, morbidity, policyholder behavior, or expense experience  
8-37 and other data as prescribed in the valuation manual.  
8-38 Sec. 425.076. CONFIDENTIALITY. (a) In this section,  
8-39 "confidential information" means:  
8-40 (1) a memorandum in support of an opinion submitted  
8-41 under Section 425.0545 and any other documents, materials, and  
8-42 other information, including, but not limited to, all working  
8-43 papers, and copies thereof, created, produced, or obtained by or  
8-44 disclosed to the commissioner or any other person in connection  
8-45 with such memorandum;  
8-46 (2) all documents, materials, and other information,  
8-47 including, but not limited to, all working papers, and copies  
8-48 thereof, created, produced, or obtained by or disclosed to the  
8-49 commissioner or any other person in the course of an examination  
8-50 made under Section 425.073(h); provided, however, that if an  
8-51 examination report or other material prepared in connection with an  
8-52 examination made under Subchapter B, Chapter 401, is not held as  
8-53 private and confidential information under Subchapter B, Chapter  
8-54 401, an examination report or other material prepared in connection  
8-55 with an examination made under Section 425.073(h) shall not be  
8-56 "confidential information" to the same extent as if such  
8-57 examination report or other material had been prepared under  
8-58 Subchapter B, Chapter 401;  
8-59 (3) any reports, documents, materials, and other  
8-60 information developed by a company in support of, or in connection  
8-61 with, an annual certification by the company under Section  
8-62 425.074(b)(2) evaluating the effectiveness of the company's  
8-63 internal controls with respect to a principle-based valuation and  
8-64 any other documents, materials, and other information, including,  
8-65 but not limited to, all working papers, and copies thereof,  
8-66 created, produced, or obtained by or disclosed to the commissioner  
8-67 or any other person in connection with such reports, documents,  
8-68 materials, and other information;  
8-69 (4) any principle-based valuation report developed

9-1 under Section 425.074(b)(3) and any other documents, materials, and  
9-2 other information, including, but not limited to, all working  
9-3 papers, and copies thereof, created, produced, or obtained by or  
9-4 disclosed to the commissioner or any other person in connection  
9-5 with such report; and

9-6 (5) any documents, materials, data, and other  
9-7 information submitted by a company under Section 425.075  
9-8 (collectively, "experience data") and any other documents,  
9-9 materials, data, and other information, including, but not limited  
9-10 to, all working papers, and copies thereof, created or produced in  
9-11 connection with such experience data, in each case that include any  
9-12 potentially company-identifying or personally identifiable  
9-13 information, that is provided to or obtained by the commissioner  
9-14 (together with any "experience data," the "experience materials")  
9-15 and any other documents, materials, data, and other information,  
9-16 including, but not limited to, all working papers, and copies  
9-17 thereof, created, produced, or obtained by or disclosed to the  
9-18 commissioner or any other person in connection with such experience  
9-19 materials.

9-20 (b) Except as provided in this section, a company's  
9-21 confidential information is confidential by law and privileged, and  
9-22 shall not be subject to Chapter 552, Government Code, shall not be  
9-23 subject to subpoena, and shall not be subject to discovery or  
9-24 admissible in evidence in any private civil action; provided,  
9-25 however, that the commissioner is authorized to use the  
9-26 confidential information in the furtherance of any regulatory or  
9-27 legal action brought against the company as a part of the  
9-28 commissioner's official duties.

9-29 (c) Neither the commissioner nor any person who received  
9-30 confidential information while acting under the authority of the  
9-31 commissioner shall be permitted or required to testify in any  
9-32 private civil action concerning any confidential information.

9-33 (d) In order to assist in the performance of the  
9-34 commissioner's duties, the commissioner may share confidential  
9-35 information (1) with other state, federal, and international  
9-36 regulatory agencies and with the National Association of Insurance  
9-37 Commissioners and its affiliates and subsidiaries and (2) in the  
9-38 case of confidential information specified in Subsections (a)(1)  
9-39 and (a)(4) only, with the Actuarial Board for Counseling and  
9-40 Discipline or its successor upon request stating that the  
9-41 confidential information is required for the purpose of  
9-42 professional disciplinary proceedings and with state, federal, and  
9-43 international law enforcement officials; in the case of (1) and  
9-44 (2), provided that such recipient agrees, and has the legal  
9-45 authority to agree, to maintain the confidentiality and privileged  
9-46 status of such documents, materials, data, and other information in  
9-47 the same manner and to the same extent as required for the  
9-48 commissioner.

9-49 (e) The commissioner may receive documents, materials,  
9-50 data, and other information, including otherwise confidential or  
9-51 privileged documents, materials, data, or information, from the  
9-52 National Association of Insurance Commissioners and its affiliates  
9-53 and subsidiaries, from regulatory or law enforcement officials of  
9-54 other foreign or domestic jurisdictions and from the Actuarial  
9-55 Board for Counseling and Discipline or its successor and shall  
9-56 maintain as confidential or privileged any document, material,  
9-57 data, or other information received with notice or the  
9-58 understanding that it is confidential or privileged under the laws  
9-59 of the jurisdiction that is the source of the document, material,  
9-60 data, or other information.

9-61 (f) The commissioner may enter into agreements governing  
9-62 sharing and use of information consistent with Subsections (b)  
9-63 through (k).

9-64 (g) No waiver of any applicable privilege or claim of  
9-65 confidentiality in the confidential information shall occur as a  
9-66 result of disclosure to the commissioner under this section or as a  
9-67 result of sharing as authorized in Subsection (d).

9-68 (h) A privilege established under the law of any state or  
9-69 jurisdiction that is substantially similar to the privilege

10-1 established under Subsections (b) through (k) shall be available  
 10-2 and enforced in any proceeding in, and in any court of, this state.

10-3 (i) In this section, a reference to a regulatory agency, law  
 10-4 enforcement agency, or the National Association of Insurance  
 10-5 Commissioners includes an employee, agent, consultant, or  
 10-6 contractor of the agency or association, as applicable.

10-7 (j) Notwithstanding this section, any confidential  
 10-8 information specified in Subsections (a)(1) and (a)(4) may be:

10-9 (1) subject to subpoena for the purpose of defending  
 10-10 an action seeking damages from the appointed actuary submitting the  
 10-11 related memorandum in support of an opinion submitted under Section  
 10-12 425.0545 or a principle-based valuation report developed under  
 10-13 Section 425.074(b)(3) by reason of an action required by this  
 10-14 subchapter or by rules adopted under this subchapter; and

10-15 (2) released by the commissioner with the written  
 10-16 consent of the company.

10-17 (k) Once any portion of a memorandum in support of an  
 10-18 opinion submitted under Section 425.0545 or a principle-based  
 10-19 valuation report developed under Section 425.074(b)(3) is cited by  
 10-20 the company in its marketing or is publicly volunteered to or before  
 10-21 a governmental agency other than a state insurance department or is  
 10-22 released by the company to the news media, all portions of such  
 10-23 memorandum or report shall no longer be confidential and  
 10-24 privileged.

10-25 Sec. 425.077. SINGLE STATE EXEMPTION. The commissioner may  
 10-26 exempt specific product forms or product lines of a domestic  
 10-27 company that is licensed and doing business only in this state from  
 10-28 the requirements of Section 425.073 if:

10-29 (1) the commissioner has issued an exemption in  
 10-30 writing to the company and has not subsequently revoked the  
 10-31 exemption in writing; and

10-32 (2) the company computes reserves using assumptions  
 10-33 and methods used before the operative date of the valuation manual  
 10-34 in addition to any requirements established by the commissioner and  
 10-35 adopted by rule.

10-36 SECTION 16. Subchapter A, Chapter 1105, Insurance Code, is  
 10-37 amended by adding Section 1105.0015 to read as follows:

10-38 Sec. 1105.0015. DEFINITION. In this chapter, "operative  
 10-39 date of the valuation manual" means the date, if any, on which the  
 10-40 valuation manual described by Subchapter B, Chapter 425 (Standard  
 10-41 Valuation Law), becomes operative as provided by that subchapter.

10-42 SECTION 17. Section 1105.055, Insurance Code, is amended by  
 10-43 amending Subsections (h) and (i) and adding Subsections (j), (k),  
 10-44 (l), and (m) to read as follows:

10-45 (h) For a policy issued before the operative date of the  
 10-46 valuation manual, any [Any] ordinary mortality table adopted after  
 10-47 1980 by the National Association of Insurance Commissioners that is  
 10-48 approved by rules adopted by the commissioner for use in  
 10-49 determining the minimum nonforfeiture standard may be substituted  
 10-50 for:

10-51 (1) the Commissioners 1980 Standard Ordinary  
 10-52 Mortality Table with or without Ten-Year Select Mortality Factors;  
 10-53 or

10-54 (2) the Commissioners 1980 Extended Term Insurance  
 10-55 Table.

10-56 (i) For a policy issued before the operative date of the  
 10-57 valuation manual, any [Any] industrial mortality table adopted  
 10-58 after 1980 by the National Association of Insurance Commissioners  
 10-59 that is approved by rules adopted by the commissioner for use in  
 10-60 determining the minimum nonforfeiture standard may be substituted  
 10-61 for:

10-62 (1) the Commissioners 1961 Standard Industrial  
 10-63 Mortality Table; or

10-64 (2) the Commissioners 1961 Industrial Extended Term  
 10-65 Insurance Table.

10-66 (j) Except as provided by Subsection (k), for a policy  
 10-67 described by Subsection (h) issued on or after the operative date of  
 10-68 the valuation manual, the valuation manual must provide the  
 10-69 commissioners standard ordinary mortality table for use in

11-1 determining the minimum nonforfeiture standard that may be  
11-2 substituted for:

11-3 (1) the Commissioners 1980 Standard Ordinary  
11-4 Mortality Table with or without Ten-Year Select Mortality Factors;  
11-5 or

11-6 (2) the Commissioners 1980 Extended Term Insurance  
11-7 Table.

11-8 (k) If the commissioner by rule adopts a commissioners  
11-9 standard ordinary mortality table adopted by the National  
11-10 Association of Insurance Commissioners for use in determining the  
11-11 minimum nonforfeiture standard for policies issued on or after the  
11-12 operative date of the valuation manual, the minimum nonforfeiture  
11-13 standard determined in accordance with that table supersedes the  
11-14 standard provided by the valuation manual.

11-15 (l) Except as provided by Subsection (m), for a policy  
11-16 described by Subsection (i) issued on or after the operative date of  
11-17 the valuation manual, the valuation manual must include the  
11-18 commissioners standard industrial mortality table for use in  
11-19 determining the minimum nonforfeiture standard that may be  
11-20 substituted for:

11-21 (1) the 1961 Standard Industrial Mortality Table; or

11-22 (2) the Commissioners 1961 Industrial Extended Term  
11-23 Insurance Table.

11-24 (m) If the commissioner by rule adopts a commissioners  
11-25 standard industrial mortality table adopted by the National  
11-26 Association of Insurance Commissioners for use in determining the  
11-27 minimum nonforfeiture standard for policies issued on or after the  
11-28 operative date of the valuation manual, the minimum nonforfeiture  
11-29 standard determined in accordance with that table supersedes the  
11-30 standard provided by the valuation manual.

11-31 SECTION 18. Section 1105.056, Insurance Code, is amended to  
11-32 read as follows:

11-33 Sec. 1105.056. NONFORFEITURE INTEREST RATE. (a) For a  
11-34 policy issued before the operative date of the valuation manual,  
11-35 the [The] annual nonforfeiture interest rate for a policy issued in  
11-36 a particular calendar year is equal to 125 percent of the calendar  
11-37 year statutory valuation interest rate for that policy as defined  
11-38 by Subchapter B, Chapter 425, rounded to the nearest one-fourth of  
11-39 one percent, except that the rate may not be less than four percent.

11-40 (b) For a policy issued on or after the operative date of the  
11-41 valuation manual, the annual nonforfeiture interest rate for any  
11-42 policy issued in a particular calendar year is provided by the  
11-43 valuation manual.

11-44 SECTION 19. The commissioner of insurance shall determine  
11-45 whether the National Association of Insurance Commissioners and a  
11-46 sufficient number of states and other jurisdictions have adopted a  
11-47 valuation manual as required by Section 425.073(b), Insurance Code,  
11-48 as added by this Act. As soon as practicable after the commissioner  
11-49 of insurance determines that the National Association of Insurance  
11-50 Commissioners and a sufficient number of states and other  
11-51 jurisdictions have adopted the valuation manual as required by that  
11-52 section, the commissioner of insurance shall adopt rules necessary  
11-53 to implement this Act.

11-54 SECTION 20. This Act takes effect September 1, 2015.

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